

CHAPTER 3

ARTICLE 11, SMOKING – NONSMOKING AND TOBACCO

Revised August 22, 2005

31110.1 Policy

To provide a healthful, comfortable, and productive work environment for employees, the Governor of the State of California has prohibited cigarette, cigar, and pipe smoking in all State-owned, leased, or occupied buildings. In addition, the Director, under the authority of Penal Code § 5030 and 5058, has prohibited the use and possession of all tobacco products at all institutions and facilities that house or detain inmates, with the exception of residential staff housing when inmates are not present. Employees shall not use or possess tobacco products in the presence of inmates. Tobacco products for personal use off institution/facility grounds shall be secured in a locked private vehicle. Smoking is also prohibited in all State passenger vehicles and any other mobile-enclosed equipment. Tobacco product advertising is not allowed inside any State-owned or occupied building unless it is contained in a program, leaflet, newspaper, magazine, or other written material lawfully sold, brought, or distributed within a State building. Posting of any tobacco product or smoking advertisement is prohibited (posters, signs, written, or visual material). Smoking is not allowed within 20 feet of a main entrance, exit, or operative window of a public building.

31110.2 Purpose

This article designates the Department's responsibilities in providing a smoke-free environment for all employees.

Collective Bargaining Disclaimer

If any non-statutory provision of this article conflicts with collective bargaining agreements, the collective bargaining agreement shall prevail as it relates to the specific represented group unless legal exceptions or required legislative action apply.

31110.3 Responsibility

All employees shall:

- Adhere to and enforce this policy.
- Attempt to resolve disagreements informally.
- Bring to the attention of the appropriate supervisor any conflicts which cannot be resolved informally.

All supervisors shall ensure that:

- No smoking occurs in a State-owned, leased, or occupied building.
- No smoking is allowed within 20 feet of a main entrance or exit or operative window of a building.
- No smoking occurs in any State-owned passenger vehicle. Smoking is also prohibited in all other State-owned mobile equipment including light and heavy trucks, cargo and

passenger vans, buses, and any other mobile equipment with an enclosed drive/passenger compartment.

- No smoking or tobacco possession occurs at any institution/facility that houses or detains inmates except for residential staff housing when inmates are not present. Employees shall not use or possess tobacco products in the presence of inmates.

Staff possession or use of smoking or tobacco products, as defined in this policy, shall be subject to the progressive disciplinary process. Any staff involved with the distribution of smoking or tobacco related products, as defined in this policy, for an inmate and/or for personal gain, shall be subject to adverse action as defined in Department Operations Manual Chapter 3, Article 22, Adverse Personnel Actions.

Hiring authorities shall establish local smoking and tobacco policies which are consistent with the provisions of this section and the Governor's Executive Order W-42-93, Government Code (GC) Sections 7596 through 7598, 19994.30 through 19994.35, and Section 5030.1 of the Penal Code.

31110.4 Definition

Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, or smoking paraphernalia used for consuming the smoke of tobacco or any other burning product.

Tobacco product means any product that contains tobacco, the prepared leaves of any plant belonging to the nicotiana family, which shall include, but not be limited to, cigarettes, loose tobacco, cigars, snuff, chewing tobacco, or any other preparation of tobacco, tobacco substitutes, smoking paraphernalia, and all other items developed or processed for the primary purpose of facilitating the use or possession of tobacco or tobacco related products as well as packaging material. Packaging material includes, but is not limited to, snuff or cigarette containers.

31110.5 Smoke Breaks

Time taken away from an employee's work station shall not exceed the total time an employee is otherwise authorized to take for rest periods. Smoke breaks are in lieu of regular breaks or rest periods and shall be permitted at the discretion of the supervisor.

31110.6 Smoking and Tobacco Areas

Smoking areas shall be designated for the purpose of departmentally approved inmate religious ceremonies by the respective facility head. Smoking and tobacco use are permitted in state-owned housing serving as the primary residence for State employees, when inmates are not present. Smoking and tobacco use in temporary residential space at correctional training academies and in Bachelor Officer Quarter's at conservation camps will be permitted only in designated areas with designated times to be determined by local operational procedures.

31110.7 Nonsmoking and Non-Tobacco Areas

Signs shall be posted at entrances of all areas designated "no smoking" or "no tobacco products use or possession", along with a citation of the authority requiring such prohibition.

No person shall smoke in any building, areas of any building, or group of buildings owned, leased, or utilized by the Department, with the exception of state-owned housing serving as the primary residence for State employees, when inmates are not present. This shall include, but is not limited to, institutions, facilities, conservation camps, community correctional, reentry, furlough and restitution centers, and family visiting units.

Smoking or tobacco possession is prohibited at any institution/facility that houses or detains inmates except for residential staff housing when inmates are not present.

31110.8 Smoking/Tobacco Cessation Assistance

The Department urges smokers to contact the local chapter of any not-for-profit smoking cessation organization such as the American Lung Association for more information about smoking and tobacco cessation programs. These programs provide for a supportive environment in which employees can quit smoking and tobacco use through education.

The Department's Office of Environmental Health and Safety Management shall periodically distribute helpful literature for those interested in such programs. Additional information can be obtained from the local and/or departmental Employee Assistance Program Coordinator, Headquarters.

31110.8.1 Training

The Department may offer smoking and tobacco cessation programs using existing employee training funds for presentation during normal working hours.

Upon initial employment, all hiring authorities shall inform employees about the smoking and tobacco use prohibition, the areas where smoking or tobacco use is permitted, and the availability of smoking and tobacco cessation programs. Enrollment in a smoking or tobacco cessation program is voluntary.

31110.9 Smoking Complaints

Resolution of any smoking or tobacco product disagreement on behalf of an employee may be pursued through the Department's complaint process. Refer to the applicable bargaining unit contract or excluded employee complaint form for the process to file a complaint.

Disputes relating to this policy are subject to the provisions of Department of Personnel Administration Rule 599.859 for non-represented employees and the various bargaining unit contracts for represented employees.

31110.10 Revisions

The Chief Deputy Secretary, Adult Operations, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

31110.11 References

GC §§ 7596 through 7598, 19994.30, 19994.33, and 19994.35.

Penal Code § 5030.1

Governor's Executive Order W-42-93.

CCR (15), §3187, 3188 and 3189.

Management Memorandum 93-30.

DPA Rule 599.859.